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## SECTION 700: CONSTRUCTION PROCEDURES

### 700.1

#### NOTICE TO PROCEED

The *Notice to Proceed* may be issued immediately after the Bureau Director signs the *Standard Form of Agreement Between the Owner and the Contractor*. The *Notice* establishes the starting date for construction and a projected date of completion.

**S A M P L E**  
**Notice to Proceed**

April 27, 1999

John Tyler Construction Company  
1212 Albertville Road  
Sampson, MS 39999

Re: Project # 370-999  
'95 Roofing Program  
Bureau of Capitol Facilities

Gentlemen:

Attached herewith is your copy of the Contract which has been properly executed. This letter is your authority to proceed with the construction of the above referenced Project. Your Contract starting date is **June 1, 1995**. The Contract requires completion within *ninety (90)* consecutive calendar days; therefore, the completion date is *August 29, 1995*.

The Bureau's Contract requires assessment of Liquidated Damages on Projects not completed within the Contract Time. *Supplementary Condition 9.3.1.4* of the Contract Documents requires each Application for Payment to be accompanied with a letter and supporting data indicating whether or not an Extension of Time is requested.

Please sign and return one (1) copy of this letter to the Bureau office.

Sincerely,

BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT

Construction Administrator

**CONTRACTOR'S ACKNOWLEDGEMENT:**

Contractor's Name

Signed By: \_\_\_\_\_

Name & Title: \_\_\_\_\_

Date: \_\_\_\_\_

The starting date for construction will be coordinated between the Using Agency and the Bureau Project Manager. The projected completion date will be calculated from the starting date in accordance with the number of calendar days stated on the *Proposal Form* and agreed to by the Contractor.

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Two (2) ORIGINALS of the *Notice* will be prepared and signed by the Bureau Inspector. These originals will be forwarded to the Contractor who will sign both, return one (1) to the Bureau and keep the other on file. The projected completion date will not change unless an extension is approved through the Change Order process. [See **Appendix 700.**]

## **700.2**

### **PRECONSTRUCTION MEETING**

A Preconstruction meeting will be scheduled prior to the commencement of Work. This meeting may be held prior to the issuance of the *Notice to Proceed*, but no later than fifteen (15) days after the Notice has been issued. The Owner's Project Manager, the Professional and his Consultants, the Contractor, major Subcontractors (including mechanical and electrical), and Using Agency representatives will be in attendance at the Preconstruction meeting.

The Bureau may be responsible for scheduling and administering the Preconstruction meeting. The Contractor or Professional is responsible for providing the following information:

1. Prepare meeting agenda:
  - a. Distribute and discuss list of major Subcontractors and construction schedule
  - b. Critical work sequencing
  - c. Designate responsible personnel
  - d. Set procedures for maintaining record documents
  - e. Set procedures for using premises, including office and storage areas
  - f. Owner's requirements
  - g. Security procedures
  - h. Housekeeping procedures
2. Distribute written notice of meetings:
  - a. Seven (7) days in advance
3. Make physical arrangements for Preconstruction meetings
4. Record minutes
5. Distribute copies of minutes to participants within four (4) days after the meeting.

A *Preconstruction Conference Agenda* is included in **Appendix 700.**

A written agreement will be reached on how all utilities will be furnished and the rates the Contractor will be charged by the Using Agency. This agreement will be resolved at the Preconstruction meeting. If the written agreement is not reached, the Contractor and Using Agency waive all rights as to the rates charged. The Owner will then determine all utility rates and assess the charges before final payment is rendered.

## **700.3**

### **CONSTRUCTION SCHEDULE**

The Contractor will furnish the Owner and Professional with two (2) copies of a construction schedule for the entire Work within fifteen (15) days after the issuance of the *Notice to Proceed*. This schedule will be revised each month and forwarded to the Owner and Professional each time.

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**700.4****SCHEDULE OF VALUES**

A *Schedule of Values*, typewritten on AIA Document G702A, will be submitted by the Contractor to the Professional at least ten (10) days prior to submitting the first Application for Payment. Upon the Professional's request, the Contractor may be asked to support the values stated on the Schedule with data substantiating their correctness.

**700.5****PRODUCT LISTING**

Within thirty (30) days after the signing of the Contract, the Contractor will submit to the Professional five (5) copies of a complete list of all products which are proposed for installation. The list should be tabulated by specification section.

Within thirty (30) days after the signing of the Contract, the Contractor will submit to the Professional five (5) copies of a list indicating all products he proposes for substitution. This list should include:

**Product List**

- \* Manufacturer's name and address
- \* Trade name
- \* Model or catalog designation
- \* Manufacturer's data
- \* Performance and test data
- \* Reference standards

1. Complete information substantiating the substituted product meets the specifications
2. Product:
  - a. Product identification (name and address)
  - b. Manufacturer's literature (product description, performance/test data, reference standards)
  - c. Samples
  - d. Name and address of similar projects on which product was used and date of installation
3. Construction Methods:
  - a. Detailed description of proposed method
  - b. Drawings illustrating methods
4. Itemized comparison of proposed substitution with product or method specified
5. Data relating to changes in construction schedule
6. Accurate cost data on proposed substitution in comparison with product or method specified

**700.6****OWNER/PROFESSIONAL/CONTRACTOR RELATIONSHIP**

The Professional will be the Owner's representative during construction and until the expiration of the Warranty period. The Professional will make on-site inspections as necessary to protect the interest of the Owner and to guard the Owner against defects and deficiencies in the Work of the Contractor. All instructions to the Contractor will go through the Professional.

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The Owner is also represented by the Bureau's Project Manager who make regular on-site inspections of the Work. If the Using Agency is occupying the building during construction, the Project Manager will coordinate with the Contractor and Using Agency a schedule for vacating areas as the Contractor requires.

The Contractor's Superintendent is responsible for the coordination of the total construction Project. All Subcontractors will cooperate with the Superintendent so as to facilitate the progress of the Work. Each trade will afford all other trades every reasonable opportunity for the installation of their work. The Contractor will receive all instructions from the Professional.

## **700.7**

### **OWNER/CONSTRUCTION PROJECT REPRESENTATIVE**

Depending upon the size of the Project, the Bureau may request the Professional to hire a full-time *Construction Project Representative* to be physically present at the Project site during normal construction hours each week. The Professional will provide, select and compensate the *Representative* upon the approval of the Bureau. The duties of the *Construction Project Representative* shall include, but not be limited to, the following:

1. Assist the Contractor in obtaining interpretation of the Contract Documents from the Professional
2. Conduct daily on-site inspections to determine conformance with the Contract Documents in regard to Work, Materials, Equipment, etc.
3. Request additional details and/or information from the Professional when needed by the Contractor
4. Evaluate suggestions and/or modifications submitted by the Contractor and transmit these to the Professional with recommendations
5. Anticipate problems, when possible, which may create delays and problems in construction and report these to the Contractor and the Professional for solutions
6. Maintain official relationship only with the General Contractor's Job Superintendent(s) and communicate problems regarding Subcontractors
7. Attend all required construction conferences and participate actively in discussions regarding the Project
8. Conduct tests and inspections authorized by the Professional and as required by the Contract Documents and record results
9. Maintain a daily log of Project activity which include, but are not limited to: hours on the job site, weather conditions, daily construction activity, number of men in each trade on the site, general observations, written and verbal directives to the Contractor and visits of governmental officials
10. If, upon inspection or observation, Work is found not in accordance with Contract Documents, advise the Professional verbally and in writing. Consult with the Professional for directions if the Contractor does not correct the Work
11. See that testing and inspections performed by others are in compliance with Contract Documents
12. When requested, accompany all Using Agency, State or Federal officials on construction inspections and record in the daily log
13. Cooperate with the Bureau Staff Architect and Inspector and provide all requested Project information
14. Maintain in an orderly manner all files, correspondence, reports, shop drawings, samples, Contract Documents, Change Orders, Addenda, supplementary drawings, and daily log
15. Review requisitions for payment submitted by the Contractor and transmit to the Professional with recommendation for payment

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16. Participate in construction inspections with the Professional's Project Director, including regular intervals and substantial completion; provide information regarding completed or defective Work
  17. Refer all communications from the Using Agency to the Bureau's Staff Architect and Inspector
  18. Copy the Bureau's Staff Architect and Inspector on all correspondence relating to the Project
  19. Review plans, specifications and shop drawings on a regular basis
  20. Advise Contractor and Professional of Work being performed with unapproved shop drawings required by Specifications
  21. Check Materials and Equipment delivered to job site against approved specifications, samples, shop drawings and related correspondence; if in conflict, notify Professional
  22. Check that Contractor is maintaining record notated drawings of as-built conditions, when as-built drawings are specified
  23. When necessary, act as liaison between the Contractor and the Using Agency in coordinating the occupation of the facility

The *Construction Project Representative* is not authorized to:

1. Authorize deviations from the Contract Documents without approval by the Professional
2. Expedite the Work for the Contractor(s)
3. Advise the Contractor on building techniques or scheduling
4. Approve shop drawings
5. Issue Certificate for Payments
6. Approve substitutions
7. Interpret the Contract Documents except when obviously clear
8. Approve Change Orders

The *Construction Project Representative* should not:

1. Enter into disputes or problems between Subcontractor and Subcontractor
2. Enter into disputes or problems between General Contractor and Subcontractor
3. Offer gratuitous advice to Contractor or Subcontractor(s) on performance of Work whether solicited or not
4. Communicate with the Using Agency's representative in any official way other than noted above
5. Make vague and unclear log entries as to the Acceptability of the Contractor's Work
6. Order a stoppage of Work except in cases of extreme emergencies

## **700.8**

### **CONTRACTOR'S DUTIES & RESPONSIBILITIES**

1. Provide and pay for:
  - a. Labor, materials and equipment
  - b. Tools, construction equipment and machinery
  - b. Water, heat and utilities required for construction
  - c. Other facilities and services necessary for proper execution and completion of the Work
2. Pay legally required sales, consumer, use, payroll, privilege and other taxes

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3. Secure and pay for, as necessary for proper execution and completion of the Work, and as applicable at the time of receipt of bids:
    - a. Permits
    - b. Government fees
    - c. Licenses
  4. Give required notices
  5. Comply with codes, ordinances, rules, regulations orders and other legal requirements of public authorities which bear on performance of the Work
  6. Promptly submit written notice to the Professional of observed variance of Contract Documents from legal requirements. It is not the Contractor's responsibility to make certain that drawings and specifications comply with codes and regulations; appropriate modifications to Contract Documents will adjust necessary changes; the Contractor assumes responsibility for the Work known to be contrary to such requirements, without notifying the Professional
  7. Enforce strict discipline and good order among employees; do not employ or work unfit persons, or persons not skilled in assigned tasks
  8. Responsibility toward Owner-furnished products:
    - a. Designate required delivery date for each Project in construction schedule
    - b. Promptly inspect delivered products, report missing, damaged, or defective items
    - c. Handle at site, including uncrating and storage
    - d. Protect from exposure to elements, from damage
    - e. Repair or replace items damaged as a result of Contractor's operations
    - f. Install and make final connections
  9. Contractor should confine the use of the premises to areas permitted by law, ordinances, permits, Contract Documents and the Owner's instructions:
    - a. Do not unreasonably encumber the site with materials, or equipment
    - b. Do not load structure with weight which will endanger structure
    - c. Assume full responsibility for protection and safekeeping of products stored on premises
    - d. Move any stored products which interfere with operations of Using Agency, or Subcontractors
    - e. Obtain and pay for use of additional storage or work areas needed for operations
    - f. Limit use of site for work and storage to the area indicated on the Contract drawings

## **700.9**

### **CONTRACTOR'S PROJECT COORDINATOR**

Regardless of the size of the Project, the Contractor will designate one (1) individual as Project Coordinator, or Superintendent, prior to the beginning of the Work. His name and qualifications will be submitted, in writing, to the Professional and Owner for approval. Upon approval, the Superintendent will remain until the Project is complete. He cannot be removed during the Construction Phase without the written consent of the Owner and the Professional.

Duties of the Superintendent include:

1. Coordinating the work of all Subcontractors and Material Suppliers
2. Supervising the every day work taking place on the Project
3. Establishing lines of authority and communication on the job site
4. Being present on the job site at all times
5. Obtaining building and special permits required for construction

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6. Consulting with the Professional to obtain interpretations of the Contract Documents
  7. Assisting in resolution of questions
  8. Transmitting written interpretations to all concerned parties
  9. Stopping all work not in accordance with the Contract Documents
  10. Presiding at all Progress meetings
  11. Preparing and submitting all construction schedules
  12. Assisting in preparation of each entry in the Schedule of Values
  13. Coordinating any testing
  14. Monitoring all temporary facilities
  15. Administering the process of all substitutions
  16. Conducting final inspections
  17. Assisting in collection and preparation of closeout documents
  18. Maintaining up-to-date Project record documents
  19. Enforcing all safety requirements
  20. Recommending and assisting in preparation of requests to Professional for changes to Contract

#### **700.10**

#### **OWNER'S RELATIONSHIP TO SUBCONTRACTORS**

The Owner's contractual agreement is with the Contractor. The Subcontractor's contractual agreement is with the Contractor. Therefore, the Owner has no direct contractual agreement with the Subcontractor and is not under any legal obligation to the Subcontractor.

However, the Owner does expect the Contractor to promptly pay each Subcontractor and Material Supplier, upon receipt of payment from the Owner. In turn, each Subcontractor should make payments to his Subcontractors and Material Suppliers in similar manner.

The amount retained by the Contractor from each payment to each Subcontractor will not exceed the percentage retained by the Owner from the Contractor.

#### **700.11**

#### **COMPLAINTS FROM SUBCONTRACTORS**

Since, there is no written contractual agreement between the Bureau and the Subcontractor, the Subcontractor has a direct Contract with the Contractor to perform a portion of the Work at the site. This Contract should be in writing for validity. The Subcontractor should assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, has towards the Owner with respect to the Work to be performed by the Subcontractor. The Subcontractor, unless specifically provided otherwise in the subcontract agreement, is allowed the same benefit of rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner.

Should the Contractor fail to carry out the subcontract agreement with the Subcontractor, the Bureau, acting as Owner, is not bound by law to intercede. The Subcontractor should contact the Contractor's Bonding Company directly for redress. The Bureau does, however, request a copy of any complaint submitted by a Subcontractor regarding a current Contractor.

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**700.12****EQUAL OPPORTUNITY EMPLOYER**

The Contractor and all Subcontractors will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or age. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

**700.13****LABOR LAW COMPLIANCE**

If the Project requires compliance with the Davis-Bacon Act, the Contractor will agree to all terms and conditions of this act. In addition, on federal and federally assisted construction Projects, the Contractor agrees to abide by all the terms and conditions of the labor standards for ratios of apprentices and trainees to journeymen.

**700.14****CONTRACTOR'S INSURANCE** (amended Aug-Dec 2013 SoS) (see also 00100, 00600, 00650, 600.42, 600.57.9)

The Contractor will pay for and maintain all insurance required by the Owner during the entire construction period. If for any reason, the Contractor allows the insurance to lapse or be canceled, construction will



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be stopped until insurance has been renewed and the Owner notified in writing by the insurance company. The insurance company will notify the Owner, thirty (30) days prior to cancellation of the policy. Insurance Provider Companies AND Agent signing Certificate must be approved by the Mississippi Insurance Department on their web at [http://www.mid.ms.gov/licapp/search\\_main.aspx](http://www.mid.ms.gov/licapp/search_main.aspx). (Agent does not have to be on the MID web “for providers necessarily” – but must be a Mississippi Licensed Agent and an approved Agent on MID web. Easier to locate Agent at MID when name agrees with MID licensed name.)

## **700.15**

### **ALLOWANCES**

Allowances may be purchased under the direction of the Professional who should consult with the Contractor regarding the products and suppliers when making selections and designating products to be used. The Professional should notify the Contractor and the Owner in writing of the decisions made regarding these allowances. The amount of each allowance should include:

1. Net cost of product
2. Delivery and unloading at the site
3. Applicable taxes
4. Handling at site, including uncrating and storage
5. Protection from elements, from damage
6. Labor, installation and finishing
7. Other expenses required to complete installation
8. Overhead and profit

The Contractor should assist the Professional by obtaining a minimum of two (2) proposals from Suppliers when requested by the Professional. When selections have been made, the Contractor should enter into a purchase agreement with the designated Supplier.

Should the actual purchase cost be more, or less, than the specified allowance amount, the Contract will be adjusted by Change Order equal to the amount of the difference.

## **700.16**

### **CONSTRUCTION TESTING**

Any soil investigations conducted by the Professional during the Planning Phase may be examined at the Professional's office by the Contractor for information purposes only and is not a Warranty of subsurface conditions. The Contractor may make his own investigations to satisfy himself with the site and subsurface conditions prior to bidding and at his own cost. Further, the Contractor will bear all cost of testing, inspections, etc. during the Construction Phase.

## **700.17**

### **PROGRESS MEETINGS**

The Bureau will schedule regular Progress meetings at the time of the Pre-construction Conference where the Owner's Project Manager, Professional and his Consultants, and Subcontractors pertinent to the agenda will attend. The Contractor will prepare the agenda to include:

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1. Review, approve minutes of the previous meeting
  2. Review work progress since last meeting
  3. Note field observations, problems and decisions
  4. Identify problems which impede planner progress
  5. Review off-site fabrication problems
  6. Revise construction schedule as indicated
  7. Plan progress during the next work period
  8. Review proposed changes
  9. Complete other current business
  10. Review application for payment submitted by the Contractor

#### **700.18**

#### **TEMPORARY FACILITIES/SERVICES**

When the Contractor sets up temporary construction facilities and services, he will be expected to meet, or exceed, the requirements established in the current edition of the *Standard Building Code*. In addition, he shall provide the following:

1. **Access:** An adequate access and/or roads to the site of the structure; at least one (1) temporary or permanent access to each working elevation.
2. **Hoisting Facilities:** Suitable capacity and hoisting facilities for all people and materials.
3. **Field Office and Sheds:** Weatherproof office with telephone.
4. **Sanitation Facilities:** Temporary toilet facilities.
5. **Drinking Water:** Drinking water facilities for all workmen, including icing, when required, paper cups, etc., all maintained in a sanitary condition.
6. **Fire Protection:** Temporary fire protection.
7. **Storage:** Storage areas to various Subcontractors.
8. **Temporary Heat:** Heat, fuel and services, as necessary, to protect all work from dampness and cold until final acceptance.
9. **Utilities:** Furnish water, electricity (lighting and power) and other utilities necessary for construction purposes.

#### **700.19**

#### **PROJECT SIGN** (new State Seal per Legislature July 1, 2014) (See Div 1 Ex B)

The Contractor will erect on adequate supports and maintain one (1) neatly constructed and painted 3/4" thick plywood sign approximately four feet by eight feet (4' x 8'). The Professional will provide the colors, letters, layout and location of the sign.

No other signs will be displayed on the job site without permission of the Professional. The displaying of sign advertisements is strictly prohibited.

#### **700.20**

#### **CHANGE ORDERS**

All changes in the Work, except those of a minor nature, consisting of additions, deletions or other revisions

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adjusting the Contract Sum and/or the Contract Time will take the form of a written *Change Order*. Suggested changes may originate from the Professional, the Contractor, the Bureau, or the Using Agency and must be prepared using the Bureau's *Standard Change Order Form*. [See **Appendix 700**.] Letters from the Professional, Contractor, or Using Agency requesting changes to the Contract will not be considered. Only when a *Change Order* is submitted on the appropriate Bureau form will it be considered.

**Special Note:** Subcontractors may not originate a *Change Order* because there is no contractual relationship between the Bureau and the Subcontractor.

If recommended changes to the Contract are proposed by the Professional or Contractor and the Bureau's Project Manager concurs these changes are needed, the Professional will issue a detailed description of the changes with the necessary Drawings and specifications to the Contractor. The Contractor will prepare and submit an estimate of the cost and Time Extension, if any, to the Professional within ten (10) days. The Contractor should include a price and justification for each task to be accomplished. As a reminder, the maximum cost included in a *Change Order* for profit and overhead is twenty percent (20%) of the total of the actual cost for Materials, Labor and Subcontractors. [See **Division 0**, page 00800-21.]

The Contractor's cost and/or Time documentation should include, but is not limited to, the following: quantities of product, labor, and equipment; taxes, insurance and bonds; overhead and profit; weather charts; credit for deletions from Contract; Time records and wage rates; quotation(s), etc.. If Drawings or Specifications are noted on the *Change Order Form*, these should be attached as documentation. In addition, statements, such as *Owner requested* or *Using Agency requested*, will not be sufficient justification. Written requests by the Owner or Using Agency must be attached for confirmation.

After the Professional has prepared the five (5) **original** *Change Orders*, detailing the need, justification and attaching all necessary Specifications and Drawings, the Professional will sign all five (5) originals certifying the *Change Order* has been examined and analyzed, found to be in order and the cost reasonable. The Contractor will sign all five (5) originals certifying agreement. Afterward, the *Change Order* will be submitted to the Bureau Director for consideration. (see also Div 1 01028.E.)

If sufficient funds are available and it is in the best interest of the Project for the *Change Order* to be approved, the Bureau Director acting as the Owner will sign and approve the changes. Two (2) of the originals will remain with the Bureau; the others will be forwarded to the Professional for distribution: one (1) to the Contractor, one (1) to the Professional; and, one (1) to the Using Agency. All Change Orders will become a part of the *Standard Form of Agreement Between the Owner and the Contractor*.

## **700.21**

### **MINOR CHANGES TO THE WORK**

The Professional will use AIA Document G710, *Architect's Supplemental Instruction*, to record verbal modifications to the Work not involving a change in the Contract Sum or the Contract Time.

## **700.22**

### **CONTRACTOR'S MONTHLY REQUEST** (modified Jan 2015=4 copies to original & 1 copy)

The Contractor's requests for periodic and final payments will be submitted to the Professional for approval using AIA Document G720 and G702A entitled *Application and Certificate for Payment*, or a computer generated form having the

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same format and containing the same information. Before submitting, the Contractor will have the application for payment notarized in accordance with the statement on the application form.

Based on inspections at the site and the Contractor's application for payment, the Professional will certify on the form, by his signature, that the Contractor is entitled to payment in the amount certified. The application and certificate for payment will be delivered to the Bureau as an original and one (1) copy. (see also Div 1 01027 1.02.C.1.)

### **700.23**

#### **EXTENSION OF TIME NOTIFICATION**

The Contractor must submit with each *Application and Certification for Payment*, or computer generated form, a separate letter stating an Extension of Time for that period of Time is or is not needed. No payment on a monthly application will be made until the letter is received. Complete justification such as weather reports or other pertinent correspondence must be included for each day's request for extension. A Contractor's letter or statement will not be considered as adequate justification. The receipt of this request and data by the Bureau will not be considered as the Bureau's approval in any way. When fifteen (15) days of lost construction time are accumulated, a change order must be prepared and, only upon the Bureau's approval, will the Time Extension be given.

### **700.24**

#### **PAYMENTS ON MATERIALS STORED OFF-SITE**

The *Supplemental Conditions* (Article 9, Paragraph 9.3.2.1) provides for payment on materials stored at some location other than the building site, if agreed upon in writing. The Bureau normally requires several items to be furnished prior to approving payment on materials stored off-site. They are as follows:

1. An acceptable *Lease Agreement* between the General Contractor and the Owner of the land, or building where the materials are stored covering the specific area where the materials are stored. [See **Appendix 700.**]
2. *Consent of Surety* or other acceptable bond to cover the materials stored off-site.
3. All perils insurance coverage for the full value of the materials stored off-site.
4. A Bill of Sale from the manufacturer to the general Contractor for the store materials.
5. A warehouse receipt which is a complete list and inventory of materials manufactured, stored and delivered to the storage site. A receipt for materials removed from the storage site and delivered to the job site.
6. A review by the Professional of the materials at the off-site storage before release of payment.
7. Guarantee no storage costs, or additional delivery fees, or other subsequent costs to the Owner.

### **700.25**

#### **PROFESSIONAL'S REQUESTS FOR PAYMENT** (modified Dec 2013 SoS; Jan 2015=4 copies to original & 1 copy)

The Professional's requests for payment for fees earned during the Planning Phase will be in accordance with stipulations in the *Standard Agreement Between the Owner and the Professional*. During the Construction Phase, however, progress payments will be submitted periodically and will be based on the current percentage requested by the Contractor. All requests will be submitted as an original and one (1) copy of the Bureau's *Professional's Application for Payment Form*. [See **Appendix 700.**]

If the *Standard Agreement Between the Owner and the Professional* requires the Professional to provide one (1) complete set of updated As-Built Construction Documents, the Professional may not receive final payment until the updated As-Built Construction Documents / reproducibles, or equivalent in .pdf format,

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have been received by the Bureau. (Dec 2013 SoS) (see 600.57 and 700.40)

## **700.26**

### **PROGRESS PAYMENTS** (Code revised 60 days to 45 days July 1, 2006)

The Bureau has by statute forty-five (45) days to process payments; however, Bureau Staff attempt to process progress payments to Contractors and Professionals in a minimum of fifteen (15) working days from the date of receipt and approval by the Bureau until the issuance of a check. [Mississippi Code, 1972 Annotated, Section 31-5-25]

## **700.27**

### **LUMP SUM PAYMENTS**

On small repair and renovation projects where the dollar volume is not sufficient to require periodic requests for payment, the Contractor will submit only one (1) request for payment at the completion and upon acceptance of the Work. Such single payment will be noted in the Bid Documents.

## **700.28**

### **RETAINAGE** (Supplementary Condition 9.3.1.3) (modified Dec 2013 SoS per 2/18/10 Addendum 1 per Code)

Mississippi Code § 31-5-33. Amount of retainage which may be withheld;

*(1) In any contract for the construction, repair, alteration or demolition of any building, structure or facility awarded by the State of Mississippi, . . . which contract provides for progress payments in installments based upon . . . percentage of . . . such retainage shall be **five percent (5%)** . . .*

*On any contract . . . of which the total amount is **Two Hundred Fifty Thousand Dollars (\$250,000.00)** or greater, or **on any contract with a subcontractor, regardless of amount, five percent (5%)** shall be retained until the work is at least fifty percent (50%) complete, on schedule and satisfactory in the architect's and/or engineer's opinion, at which time fifty percent (50%) of the retainage held to date shall be returned . . . for distribution to the appropriate subcontractors and suppliers. Provided, however, that future retainage shall be withheld at the rate of **two and one-half percent (2 ½%)**. When submitting request for reduction in retainage, the Contractor will include, with the application, a Consent of Surety to Reduction which is AIA Form G707A, and a Power of Attorney.*

## **700.29**

### **SECURITIES IN LIEU OF RETAINAGE**

Mississippi Code 1972, Annotated, Section 31-5-15, provides that in all public contracts the Contractor may withdraw the whole or any portion of the amount retained from payments due the Contractor by depositing an acceptable security with the State Treasurer in an amount equal to the amount of retainage to be withdrawn. Securities may be in the form of:

1. U.S. Treasury Bonds
2. U.S. Treasury Notes
3. U.S. Treasury Certificates of Indebtedness
4. U.S. Treasury Bills

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5. State of Mississippi Bond or Notes
  6. Bonds of any political subdivision of the State of Mississippi
  7. Certificates of deposit issued by commercial banks located in Mississippi and meeting additional criteria
  8. Certificates of deposit issued by savings and loan associations located in the State of Mississippi and meeting additional criteria

The State Treasurer can advise Contractors of procedures for depositing securities. A letter of release from the Contractor's surety and a copy or copies of the State Treasurer's securities receipt covering the deposit of securities must be on file with the Bureau before retainage will be released. Substitution of securities may be necessary from time to time because of maturities and increased withdrawal of retainage. Evidence of these transactions must be on file with the Bureau. The Bureau will notify the State Treasurer of the amount of securities required. The Treasurer will accept additional securities for a Project and accept the substitution for securities already on deposit, but will not release securities without written notification to do so by the Bureau's Director.

Professionals approving applications for payment should be advised by the Contractor of these deposits of securities and a copy of the Treasurer's receipt should be provided for his files.

### **700.30**

#### **RELEASE OF RETAINAGE**

Retainage will be released on progress payments as perscribed in Section 00800 Supplementary Conditions, Article 9, Paragraph 9.3.1.3. The balance of retainage, except that amount withheld for incomplete items, will be released at any of the following occurrences: [**Mississippi Code 1972, Annotated**, Section 31-5-25(b):

1. Occupancy by the Using Agency.
2. Substantially complete as recommended by the Project Professional and approved by the Owner.
3. Final Acceptance.

### **700.31**

#### **REQUEST FOR ASSIGNMENTS**

At times, the Department of the Treasury's Internal Revenue Service has served a *Notice of Levy* to the Bureau against the Professional and/or the Contractor for delinquent federal taxes. According to the *Notice*:

Chapter 64 of the Internal Revenue Code provides a lien for taxes and statutory additions. Notice and demand, as required by the Internal Revenue Code, has been made, and the taxpayer has neglected or refused to pay. The amount is still due, owed and unpaid. All property, rights to property, money, credits, and bank deposits currently in the [Professional's and/or Contractor's] possession and belonging to this taxpayer (or for which the Bureau is obligated) and all money or other obligations the Bureau owes this taxpayer, are levied upon for payment of the tax, plus all additions provided by law. Demand is made on the Bureau either to pay this tax liability or pay any smaller amount that the Bureau owes the taxpayer.

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The Bureau will pay directly to the Internal Revenue Service the amount indicated on the *Notice of Levy*, but in no case any more than what is earned and due to the Professional and/or Contractor. This action will be recorded on the Bureau's *Standard Approval Forms*.

#### **700.32**

#### **DEFAULT OF CONTRACT**

If the Contractor defaults on the *Standard Form of Agreement Between the Owner and the Contractor* for any of the reasons listed in the *General Conditions*, Article 14, Paragraph 14.2, the Bureau will cease payment to the Contractor and notify the Contractor's Bonding Company and seek satisfaction.

#### **700.33**

#### **LIQUIDATED DAMAGES**

#### **700.33**

#### **LIQUIDATED DAMAGES** (modified Dec 2013 SoS)

All Projects will require liquidated damages unless the Bureau records the deletion of said liquidated damages and gives written notice to the Professional.

The Professional should contact the Bureau's staff to determine if liquidated damages are required and agree on the amount stated in the *Standard Form of Agreement Between the Owner and the Contractor*.

#### **700.34**

#### **ASSESSMENT OF LIQUIDATED DAMAGES**

A recommendation will be made by the Professional covering the assessment of damages on any Project running past the completion date and accumulating liquidated damages. The Bureau will, at final closing, assess and enforce liquidated damages on any Project running past the completion date and does not have a Change Order approving an extension of Time.

The Bureau will record the amount of the liquidated damages on the Bureau's *Standard Approval Form* and deduct this amount from the Contractor's final payment. The Bureau will notify the Contractor of the assessment of liquidated damages.

#### **700.35**

#### **FINAL INSPECTION**

Upon completion of the Project, the Contractor will notify the Professional who will make an inspection and compile a list of deficiencies. If, in the Professional's judgement the Project is not ready for final inspection, another inspection will be scheduled.

The Owner's inspection will follow after all known deficiencies have been corrected and the Professional determines the Project is ready. The Professional will call for a group inspection of the Project with the Bureau, the Using Agency, and its governing board for the express purpose of determining the Contractor's compliance with the Contract Documents.

It is the responsibility of the Professional to determine, arrange and notify those needing to be present of the

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date, place and time of the final inspection including all applicable federal governmental agency representatives. The date and time of the final inspection will be set for the convenience of the Bureau, the Using Agency and its Governing Board.

One (1) week prior to the final inspection, written notice will be furnished to all parties listed above. The Professional will conduct the final inspection in the presence of those listed above and will tabulate a complete list of defects or discrepancies, if any, to be correction by the responsible parties.

Copies of the *punch list* will be furnished to all parties concerned. Once the corrections are made, the Professional will schedule a second inspection at the convenience of the Bureau. Final inspection will not be scheduled until all Work is completed or unless otherwise approved by the Bureau in writing. Upon completion of all punch list items, the Professional will provide a letter recommending acceptance to the Bureau with a copy to the Using Agency and its Governing Board.

#### **700.36**

#### **SUBSTANTIAL COMPLETION**

A *Certificate of Substantial Completion* will not be issued unless the Using Agency occupies the facility prior to final completion. The date recorded on the *Certificate* will begin the Warranty period.

#### **700.37**

#### **DATE OF ACCEPTANCE**

If a *Certificate of Substantial Completion* is not issued, then the date of final acceptance recorded by the Bureau on its *Standard Approval Form* will be the date beginning the Warranty period.

#### **700.38**

#### **OCCUPANCY**

The Using Agency will not occupy any portion of the Project without prior approval of the Bureau.

#### **700.39**

#### **INSURANCE**

Builder's Risk Insurance may not be canceled by the Contractor until final written acceptance by the Bureau, or occupancy by the Using Agency.

#### **700.40**

**CLOSEOUT DOCUMENTS** (amended Dec 2013 SoS) (see also 600.57 and Div 1 01720 for electronic As-Built Documents)

1. Application for Payment (AIA Form G702)
2. Consent of Surety Company to Final Payment (AIA Form G707) . [Mississippi Code 1972,

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**Annotated**, Section 87-7-3]

3. Power of Attorney
4. Contractor's Affidavit of Release of Liens (AIA Form G706A)
5. Contractor's Affidavit of Payment of Debts and Claims (AIA Form G706) [**Mississippi Code 1972, Annotated**, Section 87-7-5]
6. Contractor's Guarantee of Work (Company Letterhead)
7. Roof Bonds, Warranty
8. Product Manuals
9. The Contractor shall, unless waived by the Owner, also submit one electronic format copy of the updated As-Built Construction Documents in coordination with the project Close-Out Documents. (Sept-Dec 2013 SoS electronic format replaced by Bricks uploads) (see 600.57 and Div 1 01720)

#### **700.41**

##### **CONTRACTOR'S FINAL PAY REQUEST**

When submitting request for final payment, the Contractor will include with the application all the above mentioned closeout documents.

#### **700.42**

##### **GENERAL**

A *Notice of Publication of Final Settlement* will be published by the Bureau after a Project has been accepted by the Bureau and the final payment has been made. The *Notice* is published one (1) time in a newspaper having a general circulation in the county where the Project is located. If the Project is \$10,000 or less, a *Notice* is not published. [**Mississippi Code 1972, Annotated**, Section 31-5-53]

#### **700.43**

##### **FORM**

A sample of the *Notice of Publication of Final Settlement* is as follows:

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## LEGAL NOTICE

### NOTICE OF PUBLICATION OF FINAL SETTLEMENT

Notice is hereby given that the Contract between the Office of General Services, Bureau of Building, Grounds and Real Property Management, of the State of Mississippi - Jackson, Mississippi, on the one part, and (Contractor's Name) of (City/State) on the other part dated (Award Date) for

Project # \_\_\_\_\_

Project Title \_\_\_\_\_

Institution/Agency/Department \_\_\_\_\_

in or near the Town of (Project Location) in (County), Mississippi has fully and completely performed and final settlement therefore has been made or authorized to be made as shown by this advertisement published at the request of the Office of General Services, Bureau of Building, Grounds and Real Property Management.

This Notice is given under the provisions of Section 31-5-53, **Mississippi Code of 1972, Annotated.**

Dated this the (Day) day of (Month), 20 (Year).

OFFICE OF GENERAL SERVICES  
BUREAU OF BUILDING, GROUNDS AND  
REAL PROPERTY MANAGEMENT

\_\_\_\_\_  
Director

## 700.44

### WARRANTY PERIOD

If, within the period of one (1) year after the Bureau's date of substantial completion or final acceptance of the Work, any of the Work is found to be defective or not in accordance with the Contract Documents, the Using Agency will inform the Bureau who will instruct the Contractor, through the Professional by written notice, to promptly correct faulty workmanship and materials.

The Bureau will be notified in writing by the Using Agency if the Contractor fails to respond promptly. The Contractor is not responsible for maintenance during the one-year Warranty period. It is the responsibility of the Using Agency to determine if corrective action is required because of faulty maintenance or faulty construction workmanship and materials.

The Using Agency is to request action on the part of the Contractor only in those areas where responsibility lies with the Contractor.

The Contractor is not responsible for any actions taken by the Using Agency if a Warranty is voided by inappropriate actions. The Using Agency should take care in its routine maintenance not to void any Warranties.

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**700.45****YEAR-END INSPECTION**

Thirty (30) days prior to the end of the one-year Warranty period, the Professional will notify the Bureau, the Using Agency, its Governing Board, Consultants and all prime Contractors of the date and time of the year-end inspection.

At this inspection, those items of Work which are the Contractor's responsibility needing attention will be listed. This list will be distributed by the Professional to each of the parties in attendance at the inspection. The Professional is responsible for notifying the Bureau when all items listed have been corrected. If the Contractor fails to take corrective action, the Using Agency should so inform the Bureau in writing.

If the Contractor does not take action in correcting the items listed after the inspection, the Contractor's Bonding Company will be contacted for satisfaction. No further Contracts will be issued to the Contractor until the problems have been solved.